

STATE OF CONNECTICUT

DOCKET NO. CV-13-5034701S : SUPERIOR COURT  
CAMERON A. MUNOZ, ppa, : JUDICIAL DISTRICT OF  
ELIZABETH LOVERING, ET AL. : NEW HAVEN AT NEW HAVEN  
v. :  
WILLIAM K. STABLEFORD : JANUARY 10, 2014

Judicial District of New Haven  
SUPERIOR COURT  
FILED

JAN 10 2014

RULING ON MOTION FOR NONSUIT (# 102)

CHIEF CLERK'S OFFICE

On October 24, 2013, Elizabeth Lovering (Lovering) filed a three count complaint, with a return date of November 19, 2013, alleging professional negligence against William Stableford (Stableford) on behalf of her minor children Cameron and Tyler Munoz (minor plaintiffs), per proxima amici,<sup>1</sup> and on her own behalf, signing the summons herself as a self-represented party. On December 20, 2013, Stableford filed a motion (# 102) seeking the entry of a nonsuit against

<sup>1</sup> Per proxima amici, or ppa, means "by or through the next friend, and is employed when an adult brings suit on behalf of a minor, who was unable to maintain an action on his own behalf at common law." (Quotation marks omitted.) *Tomasco v. Milford Board of Education*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV 07 4008593 n. 1 (August 31, 2007, R. Robinson, J.). The first count of the complaint alleges the claims of Cameron Munoz and the second count of the complaint alleges the claims of Tyler Munoz against Stableford.

Judgment entered \_\_\_\_\_ 20  
Counsel/self-rep. ind. notified 1-10-2014  
By ☐ JDNO ☐ copy of memo ☐ other  
☒ Copy to Reporter of Judicial Decisions

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the minor plaintiffs because no attorney has filed an appearance on their behalf.<sup>2</sup> Stableford maintains that Lovering, who is not an attorney, cannot litigate the claims of the minor plaintiffs although she could initiate the action on their behalf.

It is settled law “that a child may bring a civil action only by a guardian or next friend, whose responsibility it is to ensure that the interests of the ward are well represented,” (Internal quotation marks omitted.) *Orsi v. Senatore*, 230 Conn. 459, 466-67, 645 A.2d 986 (1994). However, the real party in interest is the minor child. *Lowe v. Shelton*, 83 Conn. App. 750, 756, 851 A.2d 1183, cert. denied, 271 Conn. 915, 859 A.2d 568 (2004). With respect to the first and second counts of the complaint brought on behalf of the minor children, Lovering has appeared solely in a representative capacity for her sons, the real parties in interest.

In *Lowe v. Shelton*, the parents of a minor child brought an appeal on his behalf. The original action was initiated by the parents on the minor’s behalf but through counsel and he was represented by counsel at trial. However, the parents brought the appeal on their own without the assistance of counsel. *Id.*, 752-53. As a result, the Appellate Court addressed the question of whether parents “without the aid of an attorney, can represent the interest, as next friends, of their children” and concluded that they may not. *Id.*, 755-58.

This conclusion was premised, in part, on General Statutes § 51-88 (d) (2) which limits the right of self-representation to pleading a personal cause. *Expressway Associates II v. Friendly Ice Cream Corp. of Connecticut*, 34 Conn. App. 543, 546, 642 A.2d 62, cert. denied, 230 Conn. 915, 645 A.2d 1018 (1994). Thus, Connecticut does not permit an individual who is not licensed to

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<sup>2</sup> The motion for nonsuit is not directed against Lovering’s individual claims in the third count of the complaint as she may represent her own cause as set forth in that count. General Statutes § 51-88(d)(2).

practice law to enter an appearance in a representative capacity on behalf of, for example, a corporation, *Id.*; a trust, *Gorelick v. Montanaro*, 119 Conn. App. 785, 793, 990 A.2d 371 (2010) or an estate, *Ellis v. Cohen*, 118 Conn. App. 211, 982 A.2d 1130 (2009). Moreover, “[a] pro se party may not appear on behalf of another pro se party. To do so would be to engage in the unauthorized practice of law.” (Citations omitted.) *Collard & Roe, P.C. v. Klein*, 87 Conn. App. 337, 343-44, n.3, 865 A. 2d 500, cert. denied, 274 Conn. 904, 876 A.2d 13 (2005); General Statutes § 51-88(a).

Courts in other jurisdictions have likewise concluded that a parent who is not a properly licensed attorney may not represent her children in civil cases. In the federal system, the Circuit Courts that have addressed the issue generally hold that a parent cannot bring a federal lawsuit on behalf of a minor child without retaining a lawyer. *Whitehurst v. Wal-Mart Stores East, L.P.*, 306 Fed. Appx. 446, 2008 U.S. App. LEXIS 25259 (11th Cir. Fla. 2008); *Myers v. Loudoun County Public Schools*, 418 F.3d 395 (4<sup>th</sup> Cir. 2005); *Shepherd v. Wellman*, 313 F.3d 963, 970 (6th Cir. 2002); *McPherson v. School District No. 186*, 32 Fed. Appx. 769, 2002 U.S. App. LEXIS 7501 (7th Cir. 2002); *Johns v. County of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997); *Osei-Afriyie v. Medical College*, 937 F.2d 876, 882-83 (3d Cir. 1991); *Cheung v. Youth Orchestra Foundation of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990); *Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986)(per curiam). State appellate courts that have addressed the issue also bar a parent from litigating a civil lawsuit on behalf of her child without the assistance of an attorney. See *Yulin Li ex rel. Lee v. Rizzio*, 801 N.W.2d 351 (Iowa App. 2011) (non-attorney parent must be represented by counsel in litigating a personal injury lawsuit on behalf of her child); *Goodwin v. Hobza*, 17 Neb. App. 353, 762 N.W.2d 623, 627 (2009) ( non-attorney parent may not personally litigate

child's negligence claim); *Chambers v. Tibbs*, 980 So.2d 1010, 1015 (Ala. Civ. App. 2007) (“non-attorney parents of the child . . . may not represent the child in her action against the defendants”); *Shields v. Cape Fox Corp.*, 42 P.3d 1083, 1086 (Alaska 2002)(“a next friend cannot generally represent a minor, even as a plaintiff, without counsel”); *Byers-Watts v. Parker*, 199 Ariz. 466, 18 P.3d 1265, 1269 (2001)(“We hold that a non-attorney parent or like fiduciary must be represented by an attorney to maintain a lawsuit on behalf of a child”); *Chisholm v. Rueckhaus*, 124 N.M. 255, 948 P.2d 707, 709 (N.M. App. 1997), cert. denied, 124 N.M. 268, 949 P.2d 282 (2007) (parent cannot represent a child in medical malpractice action); *Blue v. People*, 223 Ill.App.3d 594, 596, 165 Ill.Dec. 894, 585 N.E.2d 625, 626(1992) (non-attorney father was “at most the ‘next friend’ of the minor plaintiff” and could not represent the child).

Although this court has jurisdiction over the subject matter of the minor plaintiffs’ claims, see *Lowe v. Shelton*, supra, 83 Conn. App. 754-55, this case cannot go forward as to their claims without the appearance of counsel on their behalf. To date, no attorney has filed such an appearance. Stableford accordingly relies on Practice Book § 17-20(a) which provides that “if no appearance has been entered for any party to any action on or before the second day following the return date, any other party may make a motion that a nonsuit . . . be entered for failure to appear.” Practice Book § 17-20(e) provides that the court shall grant the motion for nonsuit “if it is proper” to do so.

The court concludes that it is not proper to enter a nonsuit at this time because the absence of counsel is a curable defect. *Lowe v. Shelton*, supra, 83 Conn. App. 760-61. See *Shockley v. Okeke*, 92 Conn. App. 76, 88, 882 A.2d 1244 (2005) (Schaller, J. dissenting), appeal dismissed, 280 Conn. 777, 912 A.2d 991 (2007). With due regard for necessary rules of procedure, the court

has discretion to interpret the rules of practice liberally when strict adherence may result in an injustice. See *D'Ascanio v. Toyota Industries Corp.*, 309 Conn. 663, 671-72, 72 A.3d 1019 (2013). "It goes without saying that it is not in the interests of minors . . . that they be represented by non-attorneys [and where] they have claims that require adjudication, they are entitled to trained legal assistance . . . ." *Cheung v. Youth Orchestra Foundation of Buffalo, Inc.*, supra, 906 F.2d 60.

Consequently, in the interests of the minor plaintiffs, the court will give some time to Lovering to cure the defect. She may have sixty days from the date of the filing of this decision, that is until March 11, 2014, to retain counsel to enter an appearance on behalf of the minor plaintiffs. If no appearance has been filed by that date, Stableford may move for the entry of a nonsuit against the minor plaintiffs.

For the foregoing reasons, the motion for nonsuit is denied without prejudice.

  
LINDA K. LAGER, JUDGE